

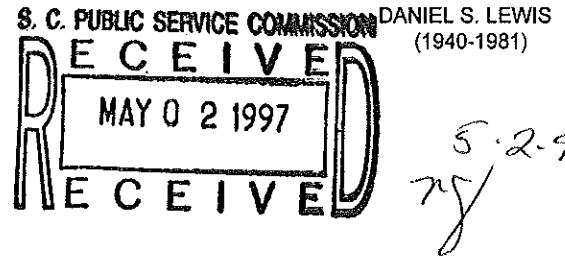
ALW L. Whitt

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TIMOTHY J. SLABOUZ

May 2, 1997



The Honorable Charles W. Ballentine
Executive Director
Public Service Commission of SC
111 Doctor's Circle
Columbia, South Carolina

HAND DELIVERED

Re: Blue Ridge Electric Cooperative, Inc. vs. Duke Power Company
(Docket No.: 97-153-E)

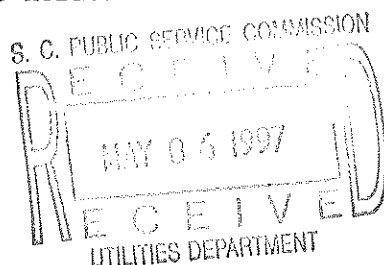
Dear Mr. Ballentine:

Enclosed please find the original plus ten (10) Duke Power Company's Response to Blue Ridge Electric Cooperative, Inc.'s ("Blue Ridge") Petition.

Now that you are in receipt of Blue Ridge's Petition and Duke Power Company's Response, I respectfully request that this matter be set for an expedited hearing.

Please note that Exhibits A and B are not available today, and we will provide them to the Commission and Mr. Hamm next week.

If you should have any questions or need additional information, please do not hesitate to contact me. With kind personal regards, I am



Very truly yours,

Richard L. Whitt

RLW:tct
Enclosures

cc: Steven W. Hamm, Esquire
The Honorable Gary E. Walsh
F. David Butler, Esquire

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO.: 97-153-E

Blue Ridge Electric Cooperative, Inc.

Petitioner,

v.

Duke Power Company,

Respondent.

CERTIFICATE OF SERVICE

I, the undersigned, an employee of Austin, Lewis & Rogers, P.A., do hereby certify that I have served the foregoing **Response to Blue Ridge Electric Cooperative's Emergency Petition**, by hand delivering a copy of the same to the following individuals:

Steven W. Hamm, Esquire
Mary Sowell League, Esquire
Richardson, Plowden, Carpenter and Robins, P.A.
1600 Main Street
Columbia, South Carolina 29201


Tanya C. Taylor

Dated: May 2, 1997

Columbia, South Carolina

POSTED
5/5/97

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO.: 97-153-E

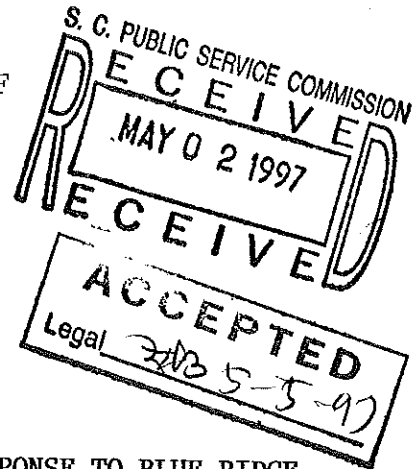
Blue Ridge Electric Cooperative, Inc.

Petitioner,

v.

Duke Power Company,

Respondent.



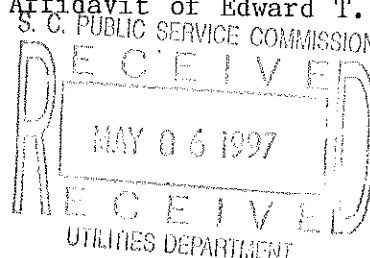
RESPONSE TO BLUE RIDGE
ELECTRIC COOPERATIVE, INC.'S
EMERGENCY PETITION

Duke Power Company (hereinafter "Duke") responds to Blue Ridge Electric Cooperative, Inc.'s (hereinafter "Blue Ridge") Emergency Petition for Rule to Show Cause and Petition for Immediate Cease and Desist Order (hereinafter "Petition"):

1. Duke's local counsel received the Petition of Blue Ridge on April 11, 1997, its date of filing with the Public Service Commission of South Carolina (hereinafter the "Commission").

2. Duke's local counsel, by letter to the Honorable Gary E. Walsh and local counsel for Blue Ridge, agreed to Cease and Desist activities to connect electric facilities of Duke with the customer in dispute, Nason Manufacturing Company (hereinafter "Nason"), pending a hearing before this Commission.

3. As is discussed hereinafter, Nason, will locate its proposed building within three hundred feet (300') of Duke's electric distribution line (see map attached as Exhibit "A", also, see Affidavit of Edward T. Connell attached as Exhibit "B").



4. Nason has made a choice to select Duke as its electrical service provider in writing (see Affidavit of the Controller of Nason attached as Exhibit "C").

5. The applicable statute is §58-27-610, S.C. Code Ann., 1976, as amended, which reads in pertinent part:

The term "line" means... provided, the term "line" shall include any electric conductor operating at nominal voltage level in excess of 25 KV and less than 48 KV where it is established to the satisfaction of the other electric suppliers in the county or counties where such conductor is located, or in the absence of such agreement, to the satisfaction of the Public Service Commission, that the primary purpose and use of such conductor is for the distribution of electric power and not for the transmission of bulk power from one area to another; and, provided, further, that the term "line" shall include any other electric conductor operating at a nominal voltage level in excess of 25 KV and less than 48 KV, except that, until it is determined that such conductor is a distribution line in accordance with the preceding proviso, the service rights with respect to premises located wholly within three hundred feet of such conductor shall not be exclusive.

6. Duke has an electrical distribution line in the disputed area, which operates at a nominal voltage level of 44 KV and which has been in place since April, 1969, (hereinafter the "distribution line") (see map attached as Exhibit "A", also, see Affidavit of Edward T. Connell attached as Exhibit "B"). This distribution line serves a customer described as Steel Heddle Corporation, Oconee Plant (see Affidavit attached hereto as Exhibit "D"). However, the Petition of Blue Ridge alleges that:

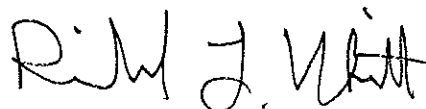
"[Duke] has no lines within this area of Petitioner's territory, and alternatively, if it is found that Respondent does have lines, that [Duke] may not assert corridor rights in territory wholly assigned to Petitioner."

As shown herein, this is incorrect. Duke does have a distribution line located within three hundred feet (300') of Nason's premises. The fact that Duke's rights are not exclusive is irrelevant because Nason has chosen Duke, in writing, as it's electric supplier pursuant to §58-27-610(3).

7. Therefore, pursuant to §58-27-610, Duke may properly serve Nason because of the location of its distribution line and the customer choice decision of Nason choosing Duke as its electrical supplier.

WHEREFORE, Duke requests this Commission to schedule this matter for a hearing on an expedited basis and thereafter find that the Petition of Blue Ridge should be dismissed as a matter of law and that Duke may properly serve the Nason premises.

Respectfully Submitted,



Richard L. Whitt
Austin, Lewis & Rogers, P.A.
1310 Lady Street, Sixth Floor
Columbia, S.C. 29201
(803)256-4000

Jefferson D. Griffith, III
Duke Power Company
422 S. Church Street
Charlotte, N.C. 28242
(704)382-8121

ATTORNEYS FOR RESPONDENT
DUKE POWER COMPANY

Dated: May 2, 1997

Columbia, South Carolina

DOCKET NO. 97- 153 -E

**AFFIDAVIT OF
DAVID SCHMIDT**

Exhibit "C"

STATE OF SOUTH CAROLINA

BEFORE THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION

DOCKET NO. 97-153-E

IN RE: Blue Ridge Electric Cooperative, Inc.,
Petitioner,
v.
Duke Power Company,
Respondent.

**AFFIDAVIT OF
MARK E. JOHNSON**

Personally appeared before me, the undersigned, who being first duly sworn,
states as follows:

1. That he is an employee of Duke Power Company and is a planning engineer with the Power Delivery Department of Duke Power Company.
2. That as a part of his duties with Duke Power Company, he has access to the building records and maintenance records of Duke Power Company's Transmission and Distribution facilities.
3. That at the request of Duke Power Company's Legal Department, he has investigated the history of the 44 kV line which ran from Westminster, South Carolina to Walhalla, South Carolina to serve the Walhalla 100-44 kV Tie Station. The project was estimated and approved in 1968 and was named the Darby Line - 44 kV. This line was built temporarily on a 100 kV double circuit line and was finished April 18, 1969.
4. That in October, 1973 the second 100 kV circuit was added to the existing towers and the Darby 44 kV Line was replaced by the 44 kV line shown in its current

location within the original right-of-way. This line was renamed the Bear Swamp 44 kV Line.

5. That the Darby 100 kV Line as originally built in April, 1969 served and continues to serve the Walhalla Tie Station. The Darby 44 kV Line presently known as the Bear Swamp 44 kV originally served the Walhalla Tie Station but ultimately most of the power was diverted to serve an industrial company which is now the Steel Heddle Corporation, Oconee Plant. Since the Darby 44 kV Line began serving this customer, it has continuously done so and it also serves as a back up to the Walhalla Tie Station.

Further affiant sayeth not.

This the 1st day of May, 1997.

Mark E. Johnson (SEAL)
Mark E. Johnson

SWORN to and subscribed before
me this the 1st day of May, 1997.

Lisa S. Turner
Notary Public

My Commission Expires: 4-13-99

